

center requests that the termination take effect.

(b) *Effective date.* (1) Upon receiving a Federally qualified health center's notice of intention to terminate the agreement, CMS will set a date upon which the termination takes effect. This effective date may be—

(i) The date proposed by the Federally qualified health center in its notice of intention to terminate, if that date is acceptable to CMS; or

(ii) Except as specified in paragraph (2) of this section, a date set by CMS, which is no later than 6 months after the date CMS receives the Federally qualified health center's notice of intention to terminate.

(2) The effective date of termination may be less than 6 months following CMS's receipt of the Federally qualified health center's notice of intention to terminate if CMS determines that termination on such a date would not—

(i) Unduly disrupt the furnishing of Federally qualified health center services to the community; or

(ii) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) The termination is effective at the end of the last day of business as a Federally qualified health center.

(c) *Termination by CMS.* (1) CMS may terminate an agreement with a Federally qualified health center if it finds that the Federally qualified health center—

(i) No longer meets the requirements specified in this subpart; or

(ii) Is not in substantial compliance with—

(A) The provisions of the agreement; or

(B) The requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act.

(2) *Notice by CMS.* CMS will notify the Federally qualified health center in writing of its intention to terminate an agreement at least 15 days before the effective date stated in the written notice.

(3) *Appeal.* A Federally qualified health center may appeal CMS's decision to terminate the agreement in accordance with part 498 of this chapter.

(d) *Effect of termination.* When a Federally qualified health center's agreement is terminated whether by the Federally qualified health center or CMS, payment will not be available for Federally qualified health center services furnished on or after the effective date of termination.

#### § 405.2440 Conditions for reinstatement after termination by CMS.

When CMS has terminated an agreement with a Federally qualified health center, CMS will not enter into another agreement with the Federally qualified health center to participate in the Medicare program unless CMS—

(a) Finds that the reason for the termination no longer exists; and

(b) Is assured that the reason for the termination of the prior agreement will not recur.

#### § 405.2442 Notice to the public.

(a) When the Federally qualified health center voluntarily terminates the agreement and an effective date is set for the termination, the Federally qualified health center must notify the public prior to a prospective effective date or on the actual day that business ceases, if no prospective date of termination has been set, through publication in at least one newspaper in general circulation in the area serviced by the Federally qualified health center of the—

(1) Effective date of termination of the provision of services; and

(2) Effect of termination of the agreement.

(b) When CMS terminates the agreement, CMS will notify the public through publication in at least one newspaper in general circulation in the Federally qualified health center's service area.

#### § 405.2444 Change of ownership.

(a) *What constitutes change of ownership—*(1) *Incorporation.* The incorporation of an unincorporated FQHC constitutes change of ownership.

(2) *Merger.* The merger of the center corporation into another corporation, or the consolidation of two or more corporations, one of which is the center corporation, resulting in the creation of a new corporation, constitutes a